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CONVENTION FOR THE PROTECTION OF THE NATURAL RESOURCES AND ENVIRONMENT OF THE SOUTH PACIFIC REGION, WITH ANNEX, AND A PROTOCOL

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE CONVENTION FOR THE PROTECTION OF THE NATURAL RESOURCES AND ENVIRONMENT OF THE SOUTH PACIFIC REGION, WITH ANNEX, AND THE PROTOCOL FOR THE PREVENTION OF POLLUTION OF THE SOUTH PACIFIC REGION BY DUMPING, WITH ANNEXES, DONE AT NOUMEA, NEW CALEDONIA, ON NOVEMBER 24, 1986

SEPTEMBER 25, 1990.—Convention and protocol were read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate Senate

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U.S. GOVERNMENT PRINTING OFFICE

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LETTER OF TRANSMITTAL

THE WHITE HOUSE, *September* 25, 1990.

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, with Annex, and the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping, with Annexes, done at Noumea, New Caledonia, on November 24, 1986. The report of the Department of State in respect of the Convention and Protocol is attached for the information of the Senate. I also transmit to the Senate, for its information, the Protocol Concerning Cooperation in Combating Pollution Emergencies in the South Pacific Region.

The Convention for the Protection of the Natural Resources and Environment of the South Pacific Region will create general legal obligations designed to protect the marine environment of the region from a variety of sources of marine pollution. In so doing, the Convention provides new environmental protection for American Samoa, Guam and the Northern Mariana Islands, as well as for the Convention area generally.

The Convention and its Protocols on dumping and pollution emergencies entered into force on August 22, 1990. Ten countries have ratified or acceded to the Convention. These are: France, Australia, New Zealand, Papua New Guinea, Solomon Islands, Fiji, the Marshall Islands, the Federated States of Micronesia, Western Samoa, and the Cook Islands. Expeditious U.S. ratification of the Convention and Protocol would demonstrate not only our commitment to the protection of the marine environment of the South Pacific but our continuing political commitment to the region as well. It would also allow the United States to participate fully at the first meeting of Parties, which will likely establish the financial and institutional arrangements for implementing the Convention.

I recommend that the Senate give early and favorable consideration to the Convention and Protocol and give its advice and consent to ratification, subject to the two understandings described in the accompanying report of the Secretary of State.

GEORGE BUSH.

UNITED NATIONS ENVIRONMENT PROGRAMME

ECONOMIC & SOCIAL COMMISSION FOR ASIA AND THE PACIFIC

SOUTH PACIFIC COMMISSION

SOUTH PACIFIC BUREAU FOR ECONOMIC CO-OPERATION

South Pacific Regional Environment Programme

CONVENTION FOR THE PROTECTION OF THE NATURAL RESOURCES AND ENVIRONMENT OF THE SOUTH PACIFIC REGION

It is hereby certified that the attached text in English of the Convention for the Protection of the Natural Resources and the Environment of the South Pacific Region adopted at Noumea, New Caledonia, on 24 November 1986 is a true and correct copy thereof.

Henry F. Naisali.
Director
South Pacific Bureau for Economic Co-operation

South Pacific Bureau For Economic Co-operation
SPEC

CONVENTION FOR THE PROTECTION
OF THE NATURAL RESOURCES AND ENVIRONMENT
OF THE SOUTH PACIFIC REGION

THE PARTIES,

FULLY AWARE of the economic and social value of the natural resources of the environment of the South Pacific Region;

TAKING INTO ACCOUNT the traditions and cultures of the Pacific people as expressed in accepted customs and practices;

CONSCIOUS of their responsibility to preserve their natural heritage for the benefit and enjoyment of present and future generations;

RECOGNIZING the special hydrological, geological and ecological characteristics of the region which requires special care and responsible management;

RECOGNIZING FURTHER the threat to the marine and coastal environment, its ecological equilibrium, resources and legitimate uses posed by pollution and by the insufficient integration of an environmental dimension into the development process;

SEEKING TO ENSURE that resource development shall be in harmony with the maintenance of the unique environmental quality of the region and the evolving principles of sustained resource management;

REALIZING FULLY the need for co-operation amongst themselves and with competent international, regional and sub-regional organisations in order to ensure a co-ordinated and comprehensive development of the natural resources of the region;

RECOGNIZING the desirability for the wider acceptance and national implementation of international agreements already in existence concerning the marine and coastal environment;

NOTING, however, that existing international agreements concerning the marine and coastal environment do not cover, in spite of the progress achieved, all aspects and sources of marine pollution and environmental degradation and do not entirely meet the special requirements of the South Pacific Region;

DESIROUS to adopt the regional convention to strengthen the implementation of the general objectives of the Action Plan for Managing the Natural Resources and Environment of the South Pacific Region adopted at Rarotonga, Cook Islands, on 11 March 1982;

HAVE AGREED AS FOLLOWS:

Article 1

GEOGRAPHICAL COVERAGE

1. This Convention shall apply to the South Pacific Region, hereinafter referred to as "the Convention Area" as defined in paragraph (a) of article 2.

2. Except as may be otherwise provided in any Protocol to this Convention, the Convention Area shall not include internal waters or archipelagic waters of the Parties as defined in accordance with international law.

Article 2

DEFINITIONS

For the purposes of this Convention and its Protocols unless otherwise defined in any such Protocol:

(a) the "Convention Area" shall comprise:

(i) the 200 nautical mile zones established in accordance with international law off:

American Samoa	Northern Mariana Islands
Australia (East Coast and Islands to eastward including Macquarie Island)	
Cook Islands	Palau
Federated States of Micronesia	Papua New Guinea
Fiji	Pitcairn Islands
French Polynesia	Solomon Islands
Guam	Tokelau
Kiribati	Tonga
Marshall Islands	Tuvalu
Nauru	Vanuatu
New Caledonia and Dependencies	Wallis and Futuna
New Zealand	Western Samoa
Niue	

(ii) those areas of high seas which are enclosed from all sides by the 200 nautical mile zones referred to in sub-paragraph (i);

(iii) areas of the Pacific Ocean which have been included in the Convention Area pursuant to article 3;

(b) "dumping" means:

- any deliberate disposal at sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;

- any deliberate disposal at sea of vessels, aircraft, platforms or other man-made structures at sea;

"dumping" does not include:

- the disposal of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures;

- placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Convention;

(c) "wastes or other matter" means material and substances of any kind, form or description;

(d) the following wastes or other matter shall be considered to be non-radioactive: sewage sludge, dredge spoil, fly ash, agricultural wastes, construction materials, vessels, artificial reef building materials and other such materials, provided that they have not been contaminated with radio nuclides of anthropogenic origin (except dispersed global fallout from nuclear weapons testing), nor are potential sources of naturally occurring radio nuclides for commercial purposes, nor have been enriched in natural or artificial radio nuclides;

if there is a question as to whether the material to be dumped should be considered non-radioactive, for the purposes of this Convention, such material shall not be dumped unless the appropriate national authority of the proposed dumper confirms that such dumping would not exceed the individual and collective dose limits of the International Atomic Energy Agency general principles for the exemption of radiation sources and practices from regulatory control. The national authority shall also take into account the relevant recommendations, standards and guidelines developed by the International Atomic Energy Agency;

(e) "vessels" and "aircraft" means waterborne or airborne craft of any type whatsoever. This expression includes air cushioned craft and floating craft, whether self-propelled or not;

(f) "pollution" means the introduction by man, directly or indirectly, of substances or energy into the marine environment (including estuaries) which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and

other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities;

in applying this definition to the Convention obligations, the Parties shall use their best endeavours to comply with the appropriate standards and recommendations established by competent international organisations, including the International Atomic Energy Agency;

(g) "Organisation" means the South Pacific Commission;

(h) "Director" means the Director of the South Pacific Bureau for Economic Co-operation.

Article 3

ADDITION TO THE CONVENTION AREA

Any Party may add areas under its jurisdiction within the Pacific Ocean between the Tropic of Cancer and 60 degrees South latitude and between 130 degrees East longitude and 120 degrees West longitude to the Convention Area. Such addition shall be notified to the Depositary who shall promptly notify the other Parties and the Organisation. Such areas shall be incorporated within the Convention Area ninety days after notification to the Parties by the Depositary, provided there has been no objection to the proposal to add new areas by any Party affected by that proposal. If there is any such objection the Parties concerned will consult with a view to resolving the matter.

Article 4

GENERAL PROVISIONS

1. The Parties shall endeavour to conclude bilateral or multilateral agreements, including regional or sub-regional agreements, for the protection, development and management of the marine and coastal environment of the Convention Area. Such agreements shall be consistent with this Convention and in accordance with international law. Copies of such agreements shall be communicated to the Organisation and through it to all Parties to this Convention.

2. Nothing in this Convention or its Protocols shall be deemed to affect obligations assumed by a Party under agreements previously concluded.

3. Nothing in this Convention and its Protocols shall be construed to prejudice or affect the interpretation and application of any provision or term in the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972.

4. This Convention and its Protocols shall be construed in accordance with international law relating to their subject matter.

5. Nothing in this Convention and its Protocols shall prejudice the present or future claims and legal views of any Party concerning the nature and extent of maritime jurisdiction.

6. Nothing in this Convention shall affect the sovereign right of States to exploit, develop and manage their own natural resources pursuant to their own policies, taking into account their duty to protect and preserve the environment. Each Party shall ensure that activities within its jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of its national jurisdiction.

Article 5

GENERAL OBLIGATIONS

1. The Parties shall endeavour, either individually or jointly, to take all appropriate measures in conformity with international law and in accordance with this Convention and those Protocols in force to which they are party to prevent, reduce and control pollution of the Convention Area, from any source, and to ensure sound environmental management and development of natural resources, using for this purpose the best practicable means at their disposal, and in accordance with their capabilities. In doing so the Parties shall endeavour to harmonise their policies at the regional level.

2. The Parties shall use their best endeavours to ensure that the implementation of this Convention shall not result in an increase in pollution in the marine environment outside the Convention Area.

3. In addition to the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping and the Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region, the Parties shall co-operate in the formulation and adoption of other Protocols prescribing agreed measures, procedures and standards to prevent, reduce and control pollution from all sources or in promoting environmental management in conformity with the objectives of this Convention.

4. The Parties shall, taking into account existing internationally recognised rules, standards, practices and procedures, co-operate with competent global, regional and sub-regional organisations to establish and adopt recommended practices, procedures and measures to prevent, reduce and control pollution from all sources and to promote sustained resource management and to ensure the sound development of natural resources in conformity with the objectives of this Convention and its Protocols, and to assist each other in fulfilling their obligations under this Convention and its Protocols.

5. The Parties shall endeavour to establish laws and regulations for the effective discharge of the obligations prescribed in this Convention. Such laws and regulations shall be no less effective than international rules, standards and recommended practices and procedures.

Article 6

POLLUTION FROM VESSELS

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area caused by discharges from vessels, and to ensure the effective application in the Convention Area of the generally accepted international rules and standards established through the competent international organisation or general diplomatic conference relating to the control of pollution from vessels.

Article 7

POLLUTION FROM LAND-BASED SOURCES

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area caused by coastal disposal or by discharges emanating from rivers, estuaries, coastal establishments, outfall structures, or any other sources in their territory.

Article 8

POLLUTION FROM SEA-BED ACTIVITIES

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area resulting directly or indirectly from exploration and exploitation of the sea-bed and its subsoil.

Article 9

AIRBORNE POLLUTION

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area resulting from discharges into the atmosphere from activities under their jurisdiction.

Article 10

DISPOSAL OF WASTES

1. The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area caused by dumping from vessels, aircraft, or man-made structures at sea, including the effective application of the relevant internationally recognised rules and procedures relating to the control of dumping of wastes and other matter. The Parties agree to prohibit the dumping of radioactive wastes or other radioactive matter in the Convention area. Without prejudice to whether or not disposal into the seabed and subsoil of wastes or other matter is "dumping", the Parties agree to prohibit the disposal into the seabed and subsoil of the Convention area of radioactive wastes or other radioactive matter.

2. This article shall also apply to the continental shelf of a Party where it extends, in accordance with international law, outward beyond the Convention Area.

Article 11

STORAGE OF TOXIC AND HAZARDOUS WASTES

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area resulting from the storage of toxic and hazardous wastes. In particular, the Parties shall prohibit the storage of radioactive wastes or other radioactive matter in the Convention Area.

Article 12

TESTING OF NUCLEAR DEVICES

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area which might result from the testing of nuclear devices.

Article 13

MINING AND COASTAL EROSION

The Parties shall take all appropriate measures to prevent, reduce and control environmental damage in the Convention Area, in particular coastal erosion caused by coastal engineering, mining activities, sand removal, land reclamation and dredging.

Article 14

SPECIALLY PROTECTED AREAS AND PROTECTION OF WILD FLORA AND FAUNA

The Parties shall, individually or jointly, take all appropriate measures to protect and preserve rare or fragile ecosystems and depleted, threatened or endangered flora and fauna as well as their habitat in the Convention Area. To this end, the Parties shall, as appropriate, establish protected areas, such as parks and reserves, and prohibit or regulate any activity likely to have adverse effects on the species, ecosystems or biological processes that such areas are designed to protect. The establishment of such areas shall not affect the rights of other Parties or third States under international law. In addition, the Parties shall exchange information concerning the administration and management of such areas.

Article 15

CO-OPERATION IN COMBATING POLLUTION IN CASES OF EMERGENCY

1. The Parties shall co-operate in taking all necessary measures to deal with pollution emergencies in the Convention Area, whatever the cause of such emergencies, and to prevent, reduce and control pollution or the threat of pollution resulting therefrom. To this end, the Parties shall develop and promote individual contingency plans and joint contingency plans for responding to incidents involving pollution or the threat thereof in the Convention Area. 2. When a Party becomes aware of a case in which the Convention Area is in imminent danger of being polluted or has been polluted, it shall immediately notify other countries and territories it deems likely to be affected by such pollution, as well as the Organisation. Furthermore it shall inform, as soon as feasible, such other countries and territories and the Organisation of any measures it has itself taken to reduce or control pollution or the threat thereof.

Article 16

ENVIRONMENTAL IMPACT ASSESSMENT

1. The Parties agree to develop and maintain, with the assistance of competent global, regional and sub-regional organisations as requested, technical guidelines and legislation giving adequate emphasis to environmental and social factors to facilitate balanced development of their natural resources and planning of their major projects which might affect the marine environment in such a way as to prevent or minimise harmful impacts on the Convention Area.

2. Each Party shall, within its capabilities, assess the potential effects of such projects on the marine environment, so that appropriate measures can be taken to prevent any substantial pollution of, or significant and harmful changes within, the Convention Area.

3. With respect to the assessment referred to in paragraph 2, each Party shall, where appropriate, invite:

(a) public comment according to its national procedures,

(b) other Parties that may be affected to consult with it and submit comments.

The results of these assessments shall be communicated to the Organisation, which shall make them available to interested Parties.

Article 17

SCIENTIFIC AND TECHNICAL CO-OPERATION

1. The Parties shall co-operate, either directly or with the assistance of competent global, regional and sub-regional organisations, in scientific research, environmental monitoring, and the exchange of data and other scientific and technical information related to the purposes of the Convention.

2. In addition, the Parties shall, for the purposes of this Convention, develop and co-ordinate research and monitoring programmes relating to the Convention Area and co-operate, as far as practicable, in the establishment and implementation of regional, sub-regional and international research programmes.

Article 18

TECHNICAL AND OTHER ASSISTANCE

The Parties undertake to co-operate, directly and when appropriate through the competent global, regional and sub-regional organisations, in the provision to other Parties of technical and other assistance in fields relating to pollution and sound environmental management of the Convention Area, taking into account the special needs of the island developing countries and territories.

Article 19

TRANSMISSION OF INFORMATION

The Parties shall transmit to the Organisation information on the measures adopted by them in the implementation of this Convention and of Protocols to which they are Parties, in such form and at such intervals as the Parties may determine.

Article 20

LIABILITY AND COMPENSATION

The Parties shall co-operate in the formulation and adoption of appropriate rules and procedures in conformity with international law in respect of liability and compensation for damage resulting from pollution of the Convention Area.

Article 21

INSTITUTIONAL ARRANGEMENTS

1. The Organisation shall be responsible for carrying out the following secretariat functions:

(a) to prepare and convene the meetings of Parties;

(b) to transmit to the Parties notifications, reports and other information received in accordance with this Convention and its Protocols;

(c) to perform the functions assigned to it by the Protocols to this Convention;

(d) to consider enquiries by, and information from, the Parties and to consult with them on questions relating to this Convention and the Protocols;

(e) to co-ordinate the implementation of co-operative activities agreed upon by the Parties;

(f) to ensure the necessary co-ordination with other competent global, regional and sub-regional bodies;

(g) to enter into such administrative arrangements as may be required for the effective discharge of the secretariat functions;

(h) to perform such other functions as may be assigned to it by the Parties; and

(i) to transmit to the South Pacific Conference and the South Pacific Forum the reports of ordinary and extraordinary meetings of the Parties.

2. Each Party shall designate an appropriate national authority to serve as the channel of communication with the Organisation for the purposes of this Convention.

Article 22

MEETINGS OF THE PARTIES

1. The Parties shall hold ordinary meetings once every two years. Ordinary meetings shall review the implementation of this Convention and its Protocols and, in particular, shall:

(a) assess periodically the state of the environment in the Convention Area;

(b) consider the information submitted by the Parties under article 19;

(c) adopt, review and amend as required annexes to this Convention and to its Protocols, in accordance with the provisions of article 25;

(d) make recommendations regarding the adoption of any Protocols or any amendments to this Convention or its Protocols in accordance with the provisions of articles 23 and 24;

(e) establish working groups as required to consider any matters concerning this Convention and its Protocols;

(f) consider co-operative activities to be undertaken within the framework of this Convention and its Protocols, including their financial and institutional implications and to adopt decisions relating thereto;

(g) consider and undertake any additional action that may be required for the achievement of the purposes of this Convention and its Protocols; and

(h) adopt by consensus financial rules and budget, prepared in consultation with the Organisation, to determine, inter alia, the financial participation of the Parties under this Convention and those Protocols to which they are party.

2. The Organisation shall convene the first ordinary meeting of the Parties not later than one year after the date on which the Convention enters into force in accordance with article 31.

3. Extraordinary meetings shall be convened at the request of any Party or upon the request of the Organisation, provided that such requests are supported by at least two-thirds of the Parties. It shall be the function of an extraordinary meeting of the Parties to consider those items proposed in the request for the holding of the extraordinary meeting and any other items agreed to by all the Parties attending the meeting.

4. The Parties shall adopt by consensus at their first ordinary meeting, rules of procedure for their meetings.

Article 23

ADOPTION OF PROTOCOLS

1. The Parties may, at a conference of plenipotentiaries, adopt Protocols to this Convention pursuant to paragraph 3 of article 5.

2. If so requested by a majority of the Parties, the Organisation shall convene a conference of plenipotentiaries for the purpose of adopting Protocols to this Convention.

Article 24

AMENDMENT OF THE CONVENTION AND ITS PROTOCOLS

1. Any Party may propose amendments to this Convention. Amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organisation at the request of two-thirds of the Parties.

2. Any Party to this Convention may propose amendments to any Protocol. Such amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organisation at the request of two-thirds of the Parties to the Protocol concerned.

3. A proposed amendment to the Convention or any Protocol shall be communicated to the Organisation, which shall promptly transmit such proposal for consideration to all the other Parties.

4. A conference of plenipotentiaries to consider a proposed amendment to the Convention or any Protocol shall be convened not less than ninety days after the requirements for the convening of the Conference have been met pursuant to paragraphs 1 or 2, as the case may be.

5. Any amendment to this Convention shall be adopted by a three-fourths majority vote of the Parties to the Convention which are represented at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Parties to the Convention. Amendments to any Protocol shall be adopted by a three-fourths majority vote of the Parties to the Protocol which are represented at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Parties to the Protocol.

6. Instruments of ratification, acceptance or approval of amendments shall be deposited with the Depositary. Amendments shall enter into force between Parties having accepted such amendments on the thirtieth day following the date of receipt by the Depositary of the instruments of at least three-fourths of the Parties to this Convention or to the Protocol concerned, as the case may be. Thereafter the amendments shall enter into force for any other Party on the thirtieth day after the date on which that Party deposits its instrument.

7. After the entry into force of an amendment to this Convention or to a Protocol, any new Party to the Convention or such protocol shall become a Party to the Convention or Protocol as amended.

Article 25

ANNEXES AND AMENDMENT OF ANNEXES

1. Annexes to this Convention or to any Protocol shall form an integral part of the Convention or such Protocol respectively.

2. Except as may be otherwise provided in any Protocol with respect to its annexes, the following procedures shall apply to the adoption and entry into force of any amendments to annexes to this Convention or to annexes to any Protocol:

(a) any Party may propose amendments to the annexes to this Convention or annexes to any Protocol;

(b) any proposed amendment shall be notified by the Organisation to the Parties not less than sixty days before the convening of a meeting of the Parties unless this requirement is waived by the meeting;

(c) such amendments shall be adopted at a meeting of the Parties by a three-fourths majority vote of the Parties to the instrument in question;

(d) the Depositary shall without delay communicate the amendments so adopted to all Parties;

(e) any Party that is unable to approve an amendment to the annexes to this Convention or to annexes to any Protocol shall so notify in writing to the Depositary within one hundred days from the date of the communication of the amendment by the Depositary. A Party may at any time substitute an acceptance for a previous declaration of objection, and the amendment shall thereupon enter into force for that Party;

(f) the Depositary shall without delay notify all Parties of any notification received pursuant to the preceding sub-paragraph; and

(g) on expiry of the period referred to in sub-paragraph (e) above, the amendment to the annex shall become effective for all Parties to this Convention or to the Protocol concerned which have not submitted a notification in accordance with the provisions of that sub-paragraph.

3. The adoption and entry into force of a new annex shall be subject to the same procedure as that for the adoption and entry into force of an amendment to an annex as set out in the provisions of paragraph 2, provided that, if any amendment to the Convention or the Protocol concerned is involved, the new annex shall not enter into force until such time as that amendment enters into force.

4. Amendments to the Annex on Arbitration shall be considered to be amendments to this Convention or its Protocols and shall be proposed and adopted in accordance with the procedures set out in article 24.

Article 26

SETTLEMENT OF DISPUTES

1. In case of a dispute between Parties as to the interpretation or application of this Convention or its Protocols, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice. If the Parties concerned cannot reach agreement, they should seek the good offices of, or jointly request mediation by, a third Party.

2. If the Parties concerned cannot settle their dispute through the means mentioned in paragraph 1, the dispute shall, upon common agreement, except as may be otherwise provided in any Protocol to this Convention, be submitted to arbitration under conditions laid down in the Annex on Arbitration to this Convention. However, failure to reach common agreement on submission of the dispute to arbitration shall not absolve the Parties from the responsibility of continuing to seek to resolve it by means referred to in paragraph 1.

3. A Party may at any time declare that it recognizes as compulsory ipso facto and without special agreement, in relation to any other Party accepting the same obligation, the application of the arbitration procedure set out in the Annex on Arbitration. Such declaration shall be notified in writing to the Depositary who shall promptly communicate it to the other Parties.

Article 27

RELATIONSHIP BETWEEN THIS CONVENTION AND ITS PROTOCOLS

1. No State may become a Party to this Convention unless it becomes at the same time a Party to one or more Protocols. No State may become a Party to a Protocol unless it is, or becomes at the same time, a Party to this Convention.

2. Decisions concerning any Protocol pursuant to articles 22, 24 and 25 of this Convention shall be taken only by the Parties to the Protocol concerned.

Article 28

SIGNATURE

This Convention, the Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region, and the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping shall be open for signature at the South Pacific Commission Headquarters in Noumea, New Caledonia on 25 November 1986 and at the South Pacific Bureau for Economic Co-operation Headquarters, Suva, Fiji from 26 November 1986 to 25 November 1987 by States which were invited to participate in the Plenipotentiary Meeting of the High Level Conference on the Protection of the Natural Resources and Environment of the South Pacific Region held at Noumea, New Caledonia from 24 November 1986 to 25 November 1986.

Article 29

RATIFICATION, ACCEPTANCE OR APPROVAL

This Convention and any Protocol thereto shall be subject to ratification, acceptance or approval by States referred to in article 28. Instruments of ratification, acceptance or approval shall be deposited with the Director who shall be the Depositary.

Article 30

ACCESSION

1. This Convention and any Protocol thereto shall be open to accession by the States referred to in article 28 as from the day following the date on which the Convention or Protocol concerned was closed for signature.

2. Any State not referred to in paragraph 1 may accede to the Convention and to any Protocol subject to prior approval by three-fourths of the Parties to the Convention or the Protocol concerned.

3. Instruments of accession shall be deposited with the Depositary.

Article 31

ENTRY INTO FORCE

1. This Convention shall enter into force on the thirtieth day following the date of deposit of at least ten instruments of ratification, acceptance, approval or accession.

2. Any Protocol to this Convention, except as otherwise provided in such Protocol, shall enter into force on the thirtieth day following the date of deposit of at least five instruments of ratification, acceptance or approval of such Protocol, or of accession thereto, provided that no Protocol shall enter into force before the Convention. Should the requirements for entry into force of a Protocol be met prior to those for entry into force of the Convention pursuant to paragraph 1, such Protocol shall enter into force on the same date as the Convention.

3. Thereafter, this Convention and any Protocol shall enter into force with respect to any State referred to in articles 28 or 30 on the thirtieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

Article 32

DENUNCIATION

1. At any time after two years from the date of entry into force of this Convention with respect to a Party, that Party may denounce the Convention by giving written notification to the Depositary.

2. Except as may be otherwise provided in any Protocol to this Convention, any Party may, at any time after two years from the date of entry into force of such Protocol with respect to that Party, denounce the Protocol by giving written notification to the Depositary.

3. Denunciation shall take effect ninety days after the date on which notification of denunciation is received by the Depositary.

4. Any Party which denounces this Convention shall be considered as also having denounced any Protocol to which it was a Party.

5. Any Party which, upon its denunciation of a Protocol, is no longer a Party to any Protocol to this Convention, shall be considered as also having denounced this Convention.

Article 33

RESPONSIBILITIES OF THE DEPOSITARY

1. The Depositary shall inform the Parties, as well as the Organisation:

(a) of the signature of this Convention and of any Protocol thereto and of the deposit of instruments of ratification, acceptance, approval, or accession in accordance with articles 29 and 30;

(b) of the date on which the Convention and any Protocol will come into force in accordance with the provisions of article 31;

(c) of notification of denunciation made in accordance with article 32;

(d) of notification of any addition to the Convention Area in accordance with article 3;

(e) of the amendments adopted with respect to the Convention and to any Protocol, their acceptance by the Parties and the date of their entry into force in accordance with the provisions of article 24; and

(f) of the adoption of new annexes and of the amendments of any annex in accordance with article 25.

2. The original of this Convention and of any Protocol thereto shall be deposited with the Depositary who shall send certified copies thereof to the Signatories, the Parties, to the Organisation and to the Secretary-General of the United Nations for registration and publication in accordance with article 102 of the United Nations Charter.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed this Convention.

DONE at Noumea, New Caledonia on the twenty-fourth day of November in the year one thousand nine hundred and eighty-six in a single copy in the English and French languages, the two texts being equally authentic.

for Australia

for the Cook Islands

for the Federated States of Micronesia

for Fiji

for the French Republic

for the Republic of Kiribati

for the Republic of the Marshall Islands

for the Republic of Nauru

for New Zealand

for Niue

for the Republic of Palau

for Papua New Guinea

for Solomon Islands

for the Kingdom of Tonga

for Tuvalu

for the United Kingdom of Great Britain and Northern Ireland

for the United States of America

for the Republic of Vanuatu

for Western Samoa

ANNEX ON ARBITRATION

Article 1

Unless the agreement referred to in article 26 of the Convention provides otherwise, the arbitration procedure shall be in accordance with the rules set out in this Annex.

Article 2

The claimant Party shall notify the Organisation that the Parties have agreed to submit the dispute to arbitration pursuant to paragraph 2, or that paragraph 3 of article 26 of the Convention is applicable. The notification shall state the subject matter of the arbitration and include the provisions of the Convention or any Protocol thereto, the interpretation or application of which is the subject of disagreement. The Organisation shall transmit this information to all Parties to the Convention or Protocol concerned.

Article 3

1. The Tribunal shall consist of a single arbitrator if so agreed between the Parties to the dispute within thirty days from the date of receipt of the notification for arbitration.

2. In the case of the death, disability or default of the arbitrator, the Parties to a dispute may agree upon a replacement within thirty days of such death, disability or default.

Article 4

1. Where the Parties to a dispute do not agree upon a Tribunal in accordance with article 3 of this Annex, the Tribunal shall consist of three members:

(i) one arbitrator nominated by each Party to the dispute, and
(ii) a third arbitrator who shall be nominated by agreement between the two first named and who shall act as its Chairman.

2. If the Chairman of a Tribunal is not nominated within thirty days of nomination of the second arbitrator, the Parties to a dispute shall, upon the request of one Party, submit to the Secretary-General of the Organisation within a further period of thirty days, an agreed list of qualified persons. The Secretary-General shall select the Chairman from such list as soon as possible. He shall not select a Chairman who is, or has been, a national of one Party to the dispute except with the consent of the other Party to the dispute.

3. If one Party to a dispute fails to nominate an arbitrator as provided in subparagraph 1(i) within sixty days from the date of receipt of the notification for arbitration, the other Party may request the submission to the Secretary-General of the Organisation within a period of thirty days of an agreed list of qualified persons. The Secretary-General shall select the Chairman of the Tribunal from such list as soon as possible. The Chairman shall then request the Party which has not nominated an arbitrator to do so. If this Party does not nominate an arbitrator within fifteen days of such request, the Secretary-General shall, upon request of the Chairman, nominate the arbitrator from the agreed list of qualified persons.

4. In the case of the death, disability or default of an arbitrator, the Party to the dispute who nominated him shall nominate a replacement within thirty days of such death, disability or default. If the Party does not nominate a replacement, the arbitration shall proceed with the remaining arbitrators. In the case of the death, disability or default of the Chairman, a replacement shall be nominated in accordance with paragraphs 1(ii) and 2 within ninety days of such death, disability or default.

5. A list of arbitrators shall be maintained by the Secretary-General of the Organisation and composed of qualified persons nominated by the Parties. Each Party may designate for inclusion in the list four persons who shall not necessarily be its nationals. If the Parties to the dispute have failed within the specified time limits to submit to the Secretary-General an agreed list of qualified persons as provided for in paragraphs 2, 3 and 4, the Secretary-General shall select from the list maintained by him the arbitrator or arbitrators not yet nominated.

Article 5

The Tribunal may hear and determine counter-claims arising directly out of the subject matter of the dispute.

Article 6

The Tribunal may, at the request of one of the Parties to the dispute, recommend interim measures of protection.

Article 7

Each Party to the dispute shall be responsible for the costs entailed by the preparation of its own case. The remuneration of the members of the Tribunal and of all general expenses incurred by the arbitration shall be borne equally by the Parties to the dispute. The Tribunal shall keep a record of all its expenses and shall furnish a final statement thereof to the Parties.

Article 8

Any Party which has an interest of a legal nature which may be affected by the decision in the case may, after giving written notice to the Parties to the dispute which have originally initiated the procedure, intervene in the arbitration procedure with the consent of the Tribunal which should be freely given. Any intervenor shall participate at its own expense. Any such intervenor shall have the right to present evidence, briefs and oral arguments on the matter giving rise to its intervention, in accordance with procedures established pursuant to article 9 of this Annex but shall have no rights with respect to the composition of the Tribunal.

Article 9

A Tribunal established under the provisions of this Annex shall decide its own rules of procedure.

Article 10

1. Unless a Tribunal consists of a single arbitrator, decisions of the Tribunal as to its procedure, its place of meeting, and any question related to the dispute laid before it, shall be taken by majority vote of its members. However, the absence or abstention of any member of the Tribunal who was nominated by a Party to the dispute shall not constitute an impediment to the Tribunal reaching a decision. In case of equal voting, the vote of the Chairman shall be decisive.

2. The Parties to the dispute shall facilitate the work of the Tribunal and in particular shall, in accordance with their legislation and using all means at their disposal:

(i) provide the Tribunal with all necessary documents and information, and
(ii) enable the Tribunal to enter their territory, to hear witnesses or experts, and to visit the scene of the subject matter of the arbitration.

3. The failure of a Party to the dispute to comply with the provisions of paragraph 2 or to defend its case shall not preclude the Tribunal from reaching a decision and rendering an award.

Article 11

The Tribunal shall render its award within five months from the time it is established unless it finds it necessary to extend that time limit for a period not to exceed five months. The award of the Tribunal shall be accompanied by a statement of reasons for the decision. It shall be final and without appeal and shall be communicated to the Secretary-General of the Organisation who shall inform the Parties. The Parties to the dispute shall immediately comply with the award.

UNITED NATIONS ENVIRONMENT PROGRAMME

ECONOMIC & SOCIAL COMMISSION FOR ASIA AND THE PACIFIC

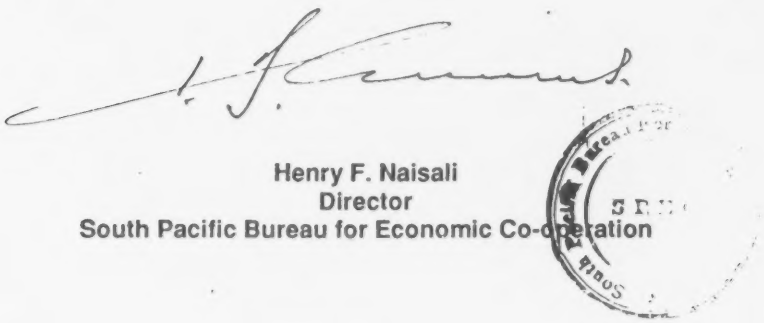
SOUTH PACIFIC COMMISSION

SOUTH PACIFIC BUREAU FOR ECONOMIC CO-OPERATION

South Pacific Regional Environment Programme

PROTOCOL FOR THE PREVENTION OF POLLUTION OF THE SOUTH PACIFIC REGION BY DUMPING

It is hereby certified that the attached text in English of the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping adopted at Noumea, New Caledonia, on 24 November 1986, is a true and correct copy thereof



Henry F. Naisali
Director
South Pacific Bureau for Economic Co-operation

PROTOCOL FOR THE PREVENTION OF POLLUTION OF THE SOUTH PACIFIC REGION BY DUMPING

THE PARTIES TO THE PROTOCOL,

BEING PARTIES to the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, adopted in Noumea, New Caledonia on the twenty-fourth day of November in the year one thousand nine hundred and eighty-six;

RECOGNIZING the danger posed to the marine environment by pollution caused by the dumping of waste or other matter;

CONSIDERING that they have a common interest to protect the South Pacific Region from this danger, taking into account the unique environmental quality of the region;

DESIRING to enter into a regional agreement consistent with the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 as provided in article VIII thereof according to which the Contracting Parties to that Convention have undertaken to endeavour to act consistently with the objectives and provisions of such regional agreement;

HAVE AGREED AS FOLLOWS:

Article 1

DEFINITIONS

For the purpose of this Protocol "Convention" means the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region adopted in Noumea, New Caledonia on the twenty-fourth day of November in the year one thousand nine hundred and eighty-six;

Article 2

GEOGRAPHICAL COVERAGE

The area to which this Protocol applies, hereinafter referred to as the "Protocol Area", shall be the Convention Area as defined in article 2 of the Convention together with the continental shelf of a Party where it extends, in accordance with international law, outward beyond the Convention Area.

Article 3

GENERAL OBLIGATIONS

1. The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Protocol Area by dumping.

2. Dumping within the territorial sea and the exclusive economic zone or onto the continental shelf of a Party as defined in international law shall not be carried out without the express prior approval of that Party, which has the right to permit, regulate and control such dumping taking fully into account the provisions of this Protocol, and after due consideration of the matter with other Parties which by reason of their geographical situation may be adversely affected thereby.

3. National laws, regulations and measures adopted by the Parties shall be no less effective in preventing, reducing and controlling pollution by dumping than the relevant internationally recognised rules and procedures relating to the control of dumping established within the framework of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972.

Article 4

PROHIBITED SUBSTANCES

1. The dumping in the Protocol Area of wastes or other matter listed in Annex I to this Protocol is prohibited except as provided in this Protocol.

2. No provision of this Protocol is to be interpreted as preventing a Party from prohibiting, insofar as that Party is concerned, the dumping of wastes or other matter not mentioned in Annex I. That Party shall notify such measures to the Organisation.

Article 5

SPECIAL PERMITS

The dumping in the Protocol Area of wastes or other matter listed in Annex II to this Protocol requires, in each case, a prior special permit.

Article 6

GENERAL PERMITS

The dumping in the Protocol Area of all wastes or other matter not listed in Annexes I and II to this Protocol requires a prior general permit.

Article 7

FACTORS GOVERNING THE ISSUE OF PERMITS

The permits referred to in articles 5 and 6 shall be issued only after careful consideration of all the factors set forth in Annex III to this Protocol. The Organisation shall receive records of such permits.

Article 8

ALLOCATION OF SUBSTANCES TO ANNEXES

Substances are allocated to Annexes I and II of this Protocol in accordance with Annex IV.

Article 9

FORCE MAJEURE

The provisions of articles 4, 5 and 6 shall not apply when it is necessary to secure the safety of human life or of vessels, aircraft, platforms or other man-made structures at sea in cases of force majeure caused by stress of weather, or in any case which constitutes a danger to human life or a real threat to vessels, aircraft, platforms, or other man-made structures at sea, if dumping appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping will be less than would otherwise occur. Such dumping shall be so conducted as to minimise the likelihood of damage to human or marine life. Such dumping shall immediately be reported to the Organisation and, either through the Organisation or directly, to any Party or Parties likely to be affected, together with full details of the circumstances and of the nature and quantities of the wastes or other matter dumped.

Article 10

EMERGENCIES

1. A Party may issue a special permit as an exception to article 4, in emergencies arising in the Protocol Area, posing unacceptable risk relating to human health and admitting no other feasible solution. Before doing so the Party shall consult any other country or countries that are likely to be affected and the Organisation which, after consultating other Parties, and international organisations as appropriate, shall in accordance with article 15 promptly recommend to the Party the most appropriate procedures to adopt. The Party shall follow these recommendations to the maximum extent feasible consistent with the time within which action must be taken and with the general obligation to avoid damage to the marine environment and shall inform the Organisation of the action it takes. The Parties pledge themselves to assist one another in such situations.

2. This article does not apply with respect to materials in whatever form produced for biological and chemical warfare referred to in paragraph 6 of Section A of Annex I.

3. Any Party may waive its rights under paragraph 1 at the time of, or subsequent to ratification, acceptance or approval of, or accession to this Protocol.

Article 11

ISSUANCE OF PERMITS

1. Each Party shall designate an appropriate authority or authorities to:

(a) issue the special permits provided for in article 5 and in the emergency circumstances provided for in article 10;

(b) issue the general permits provided for in article 6;

(c) keep records of the nature and quantities of the wastes or other matter permitted to be dumped and of the location, date and method of dumping; and

(d) monitor individually, or in collaboration with other Parties, and competent international organisations, the condition of the Protocol Area for the purposes of this Protocol.

2. The appropriate authority or authorities of each Party shall issue the permits provided for in articles 5 and 6 and in the emergency circumstances provided for in article 10 in respect of the wastes or other matter intended for dumping:

(a) loaded in its territory or at its off-shore terminals; or

(b) loaded by vessels flying its flag or vessels or aircraft of its registry when the loading occurs in the territory or at the offshore terminals of a State not Party to this Protocol.

3. In issuing permits under paragraphs 1 (a) and (b) the appropriate authority or authorities shall comply with Annex III together with such additional criteria, measures and requirements as they may consider relevant.

Article 12

IMPLEMENTATION AND ENFORCEMENT

1. Each Party shall apply the measures required to implement this Protocol to all:

(a) vessels flying its flag and vessels and aircraft of its registry;

(b) vessels and aircraft loading in its territory or at its offshore terminals wastes or other matter which are to be dumped; and

(c) vessels, aircraft and fixed or floating platforms believed to be engaged in dumping in areas under its jurisdiction.

2. Each Party shall take in its territory appropriate measures to prevent and punish conduct in contravention of the provisions of this Protocol.

3. The Parties agree to co-operate in the development of procedures for the effective application of this Protocol particularly on the high seas, including procedures for the reporting of vessels and aircraft observed dumping in contravention of the Protocol.

4. This Protocol shall not apply to those vessels and aircraft entitled to sovereign immunity under international law. However, each Party shall ensure by the adoption of appropriate measures that such vessels and aircraft owned or operated by it act in a manner consistent with the object and purpose of this Protocol and shall inform the Organisation accordingly.

Article 13

ADOPTION OF OTHER MEASURES

Nothing in this Protocol shall affect the right of each Party to adopt other measures, in accordance with the principles of international law, to prevent dumping.

Article 14

REPORTING OF DUMPING INCIDENTS

Each Party undertakes to issue instructions to its maritime inspection vessels and aircraft and to other appropriate services to report to its authorities any incidents or conditions in the Protocol area which give rise to suspicions that dumping in contravention of the provisions of this Protocol has occurred or is about to occur. That Party shall, if it considers it appropriate, report accordingly to the Organisation and to any other Party concerned.

Article 15

INSTITUTIONAL ARRANGEMENTS

The Parties designate the Organisation to carry out the following functions:

(a) to assist the Parties, upon request, in the communication of reports in accordance with articles 9 and 14;

(b) to convey to the Parties concerned all notifications received by the Organisation in accordance with articles 4(2) and 10;

(c) to transmit to the International Maritime Organization as the organisation responsible for the secretariat functions under the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 records and any other information received in accordance with article 7;

(d) to keep itself informed on evolving international standards and the results of research and investigation, and to advise meetings of Parties to this Protocol of such developments and any modification of the Annexes which may become desirable; and

(e) to carry out other duties assigned to it by the Parties.

Article 16

MEETINGS OF THE PARTIES

1. Ordinary meetings of the Parties to this Protocol shall be held in conjunction with ordinary meetings of the Parties to the Convention held pursuant to article 22 of the Convention. The Parties to this Protocol may also hold extraordinary meetings in conformity with article 22 of the Convention.

2. It shall be the function of the meetings of the Parties to this Protocol to:

(a) keep under review the implementation of this Protocol, and to consider the efficacy of the measures adopted and the need for any other measures, in particular in the form of annexes;

(b) study and consider the records of the permits issued in accordance with articles 5, 6, 7 and the emergency situation in article 10, and of the dumping which has taken place;

(c) review and amend as required any Annex to this Protocol taking into account Annex IV;

(d) adopt as necessary guidelines for the preparation of records and procedures to be followed in submitting such records for the purposes of article 7;

(e) develop, adopt and implement in consultation with the Organisation and other competent international organisations procedures pursuant to article 10 including basic criteria for determining emergency circumstances and procedures for consultative advice and the safe disposal, storage or destruction of matter in such circumstances;

(f) invite, as necessary, the appropriate scientific body or bodies to collaborate with and to advise the Parties and the Organisation on any scientific or technical aspects relevant to this Protocol, including particularly the content and applicability of the Annexes; and

(g) perform such other functions as may be appropriate for the implementation of this Protocol.

3. The adoption of amendments to the Annexes to this Protocol pursuant to article 25 of the Convention shall require a three fourths majority vote of the Parties to this Protocol.

Article 17

RELATIONSHIP BETWEEN THIS PROTOCOL AND THE CONVENTION

1. The provisions of the Convention relating to any protocol shall apply with respect to the present Protocol.

2. The rules of procedures and the financial rules adopted pursuant to article 22 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed this Protocol.

DONE at Noumea, New Caledonia on the twenty-fifth day of November in the year one thousand nine hundred and eighty-six, in a single copy in the English and French languages, the two texts being equally authentic.

for Australia

for the Cook Islands

for the Federated States of Micronesia

for Fiji

for the French Republic

for the Republic of Kiribati

for the Republic of the Marshall Islands

for the Republic of Nauru

for New Zealand

for Niue

for the Republic of Palau

10

for Papua New Guinea

for Solomon Islands

for the Kingdom of Tonga

for Tuvalu

for the United Kingdom of Great Britain and Northern Ireland

for the United States of America

11

for the Republic of Vanuatu

for Western Samoa

ANNEX I

- A -

The following substances and materials are listed for the purposes of article 4 of this Protocol.

1. Organohalogen compounds.

2. Mercury and mercury compounds.

3. Cadmium and cadmium compounds.

4. Persistent plastics and other persistent synthetic materials, for example, netting and ropes, which may remain in suspension in the sea in such a manner as to interfere materially with fishing, navigation or other legitimate uses of the sea.

5. Crude oil and its wastes, refined petroleum products, petroleum distillate residues and any mixtures containing any of these taken on board for the purpose of dumping.

6. Materials in whatever form (e.g. solids, liquids, semi-liquids, gases, or in a living state) produced for biological and chemical warfare.

7. Organophosphorous compounds.

- B -

Section A does not apply to substances, other than substances produced for biological or chemical warfare, which are rapidly rendered harmless by physical, chemical or biological processes in the sea provided they do not:

- make edible marine organisms unpalatable; or

- endanger human health or that of marine biota.

The consultative procedure provided for under article 10 shall be followed by a Party if there is doubt about the harmlessness of the substance.

- C -

This Annex does not apply to wastes or other materials, such as sewage sludges and dredged spoils, containing the matters referred to in paragraphs 1 - 5 of Section A as trace contaminants. The dumping of such wastes shall be subject to the provisions of Annexes II and III as appropriate.

ANNEX II

The following substances and materials requiring special care are listed for the purposes of article 5 of this Protocol.

- A -

Wastes containing a significant amount of the matters listed below:

arsenic)
lead)
copper) and their compounds
zinc)

organosilicon compounds
cyanides
fluorides
pesticides and their by-products not covered in Annex I.

- B -

In the issue of permits for the dumping of acids and alkalis, consideration shall be given to the possible presence in such wastes of the substances listed in section A and to the following additional substances:

beryllium)
chromium)
nickel) and their compounds
vandium)

- C -

Containers, scrap metal and other bulky wastes liable to sink to the sea bottom which may present a serious obstacle to fishing or navigation.

- D -

Substances which, though of a non-toxic nature, may become harmful due to the quantities in which they are dumped, or which are liable to seriously reduce amenities.

ANNEX III

Provisions to be considered in establishing criteria governing the issue of permits for the dumping of matter at sea, taking into account article 7 of this Protocol, include:

- A -

Characteristics and Composition of the Matter

1. Total amount and average composition of matter dumped (e.g. per year).

2. Form, (e.g. solid, sludge, liquid, or gaseous).

3. Properties: physical (e.g. solubility and density), chemical and biochemical (e.g. oxygen demand, nutrients) and biological (e.g. presence of viruses, bacteria, yeasts, parasites).

4. Toxicity

5. Persistence: physical, chemical and biological.

6. Accumulation and biotransformation in biological materials or sediments.

7. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other dissolved organic and inorganic materials.

8. Probability of production of taints or other changes reducing marketability of resources (e.g. fish, shellfish, etc.).

9. In issuing a permit for dumping, Parties should consider whether an adequate scientific basis and sufficient knowledge of the composition and characteristics of the waste or other matter proposed for dumping exist for assessing the impact of such material on the marine environment and human health.

- B -

Characteristics of Dumping Site and Method of Deposit

1. Location (e.g. co-ordinates of the dumping area, depth and distance from the coast), location in relation to other areas (e.g. amenity areas, spawning, nursery and fishing areas and exploitable resources).

2. Rate of disposal per specific period (e.g. quantity per day, per week, per month).

3. Methods of packaging and containment, if any.

4. Initial dilution achieved by proposed method of release.

5. Dispersal characteristics (e.g. effects of currents, tides and wind on horizontal transport and vertical mixing).

6. Water characteristics (e.g. temperature, pH, salinity, stratification, oxygen indices of pollution - dissolved oxygen (DO), chemical oxygen demand (COD), biochemical oxygen demand (BOD), - nitrogen present in organic and mineral form including ammonia, suspended matter, other nutrients and productivity).

7. Bottom characteristics (e.g. topography, geochemical and geological characteristics and biological productivity).

8. Existence and effects of other dumpings which have been made in the dumping area (e.g. heavy metal background reading and organic carbon content).

9. In issuing a permit for dumping, Parties should consider whether an adequate scientific basis exists for assessing the consequences of such dumping, as outlined in this Annex, taking into account seasonal variations.

- C -

General Considerations and Conditions

1. Possible effects on amenities (e.g. presence of floating or stranded materials, turbidity, objectionable odour, discolouration and foaming).

2. Possible effects on marine life, fish and shellfish culture, fish stocks and fisheries, seaweed harvesting and culture.

3. Possible effects on other uses of the sea (e.g. impairment of water quality for industrial use, underwater corrosion of structure, interference with ship operations from floating materials, interference with fishing or navigation through deposit of waste or solid objects on the sea floor and protection of areas of special importance of scientific or conservation purposes).

4. The practical availability of alternative land-based methods of treatment, disposal or elimination, or of treatment to render the matter less harmful for dumping at sea.

- D -

References

Reference should also be made to "Guidelines for the Implementation and Uniform Interpretation of Annex III" as adopted by the Consultative Meeting of Contracting Parties to the Convention on the Prevention of Marine Pollution By Dumping of Wastes and Other Matter, 1972.

ANNEX IV

ALLOCATION OF SUBSTANCES TO ANNEXES

1. Substances are allocated to Annexes I and II on the grounds of any combination of the following criteria:

Persistence and degradability,

Bioaccumulation potential,

Toxicity to marine life,

Toxicity to man, domestic animals, marine mammals and birds preying on marine organisms,

Carcinogenicity and mutagenicity,

Ability to interfere with other legitimate uses of the sea.

2. Annex I substances are those which have a high degree of persistence coupled with:

a the ability to accumulate to harmful levels in terms of toxicity to marine organisms and their predators, to domestic animals or to man; or

b the ability to accumulate through marine pathways to levels harmful in terms of carcinogenicity or mutagenicity to domestic animals or to man; or

c the ability to cause interference with fisheries, amenities or other legitimate uses of the sea.

3. Annex II substances are all those considered suitable for inclusion in the Annexes except for those allocated to Annex I.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, September 11, 1990.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, with Annex, and the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping, with Annexes, done at Noumea, New Caledonia, on November 24, 1986. I recommend that the Treaty and Protocol be transmitted to the Senate for its advice and consent to ratification.

The Convention creates general legal obligations to protect the Convention area from pollution from various sources, including vessels, seabed activities, and the testing of nuclear devices. It provides for the adoption of additional protocols with specific obligations regarding pollution or environmental management, as the Parties may deem necessary and desirable.

The Convention area encompasses the 200 nautical mile zones of twenty-four states and territories located in the South Pacific region and the areas of high seas beyond 200 miles that are entirely enclosed by those zones. Any Party may add to the Convention area those areas under its jurisdiction which fall within specified coordinates in the Pacific region if no other Party objects. The Convention area does not include internal or archipelagic waters except as may otherwise be provided in a protocol.

The Convention does not prohibit nuclear testing, although that was an objective of virtually all the island states. Instead, it obligates Parties to take all appropriate measures to prevent, reduce and control pollution in the Convention area which might result from the testing of nuclear devices. The Convention includes a ban on the dumping of radioactive waste in the Convention area. There is no ban on the dumping of low-level radioactive waste in the 1972 Convention on the Prevention of Marine Pollution By Dumping of Wastes and Other Matter ("London Dumping Convention") to which the United States is a Party. The Convention will promote harmony in the South Pacific region, an area with unique geographic circumstances which preliminary scientific evidence indicated at the time of signing was not particularly well-suited for dumping low-level radioactive waste. The United States was neither engaging in nor had any plans to engage in the dumping of low-level radioactive waste in the Convention area at the time of signing, nor does it now have any plans to do so.

The United States does not regard our agreement to the Convention as a precedent for such provisions in other regional agreements or under the London Dumping Convention. On a related point, it was the Parties' intent that the prohibition on storage of radioactive waste in the Convention area does not apply to storage either on a vessel operating in the Convention area, or offloading or loading in port, or to storage on dry land.

The Convention represents the culmination of work related to the Action Plan for the South Pacific Regional Environment Program (SPREP), adopted by the Ministerial-Level Conference on the Human Environment in the South Pacific, held in Rarotonga, Cook Islands, in March 1982. Thus this treaty is referred to as the SPREP Convention. The final text was negotiated at two meetings in November 1986, at Noumea, New Caledonia, and has been signed by thirteen nations, including the United States. Also adopted at that time were two Protocols, one on dumping, submitted herein, and the Protocol Concerning Cooperation in Combating Pollution Emergencies in the South Pacific Region, which is appropriately treated as an executive agreement. This agreement calls for the establishment of reporting requirements, response measures and mutual assistance in combating pollution emergencies, and it designates the Organization to carry out additional administrative functions. The United States will implement the Pollution Emergencies Protocol under existing statutory authority which, among other things, defines the hazardous substances as to which the United States may taken action. A copy of the Pollution Emergencies Protocol is included for the information of the Senate.

The Convention and Protocols are considered a major step forward both with regard to protecting the environment of the South Pacific and to U.S. relations with the states concerned. The Convention bridges differences between the island states, which have expressed concern over environmental issues, particularly nuclear issues, and the other states with strategic interests in the region. It is designed to reduce tensions by creating a legal framework and institutional arrangements for mutual assistance and cooperation, scientific projects, and information exchange.

The major provisions of the Convention are the following:

Article 1 identifies the geographic coverage of the Convention, as described above.

Article 2 defines various Convention terms, including the Convention area and "pollution." The definition of "dumping" is substantially the same as that of the 1972 London Dumping Convention. In addition, several wastes are listed which are not to be considered radioactive and thus not subject to the prohibitions of Article 10. To dispel any ambiguity that may be raised by the definition of non-radioactive substances in Article 2(d), I recommend that the United States include the following understanding at the time of deposit of its instrument of ratification:

> In ratifying the Convention, the United States understands that wastes and other matter which would be recommended for exemption from regulatory control as radioactive waste by the relevant recommendations, standards, and guidelines of the International Atomic Energy Agency

shall be treated as non-radioactive for the purposes of the Convention.

With respect to secretariat and depositary functions, "Organization" is defined as the South Pacific Commission and "Director" as the Director of the South Pacific Bureau for Economic Cooperation.

Article 3 provides that any Party may add to the Convention area those areas under its jurisdiction which fall within specified coordinates in the Pacific region as long as no other Party objects.

Article 4 encourages Parties to conclude bilateral or multilateral agreements, including regional or subregional agreements, to further the objectives of the Convention. Such agreements must be consistent with the Convention and in accordance with international law. The subject matter of the Convention and its Protocols shall be construed in accordance with international law. The Convention does not increase rights of States against vessels on the high seas. Nothing in the Convention and its Protocols shall prejudice the present or future claims and legal views of any Party concerning the nature and extent of maritime jurisdiction, or affect the sovereign rights of States to exploit and develop their own natural resources in a manner consistent with the duty to protect the environment. The general provisions of Article 4 are implemented in subsequent articles. Article 4 was not intended to create any independent obligation beyond those specifically established in other provisions.

Article 5 indicates general obligations to take appropriate measures to prevent, reduce and control pollution of the Convention area, and ensure sound environmental management and development of natural resources. Parties are required to cooperate with competent global, regional and subregional organizations in promoting the objectives of the Convention and its Protocols and to assist each other in fulfilling their obligations.

Article 6 provides an obligation to take appropriate measures to prevent pollution caused by discharges from vessels and to ensure the effective application of generally accepted international rules and standards (understood to be those established by the International Maritime Organization).

Articles 7, 8, and 9 obligate States to take appropriate measures to prevent, reduce, and control pollution emanating from land-based sources, from the exploration or exploitation of the seabed, and from discharges into the atmosphere from activities under the jurisdiction of the Parties.

Article 10 provides an obligation to take appropriate measures to prevent, reduce, and control pollution caused by dumping from vessels, aircraft or man-made structures at sea, including the effective application of relevant international rules and procedures (understood to be those promulgated under the 1972 London Dumping Convention). The Parties agree to prohibit the dumping of radioactive wastes or other radioactive matter in the Convention area. With regard to dumping of radioactive wastes, the Convention is more restrictive than the London Dumping Convention. It is the view of the concerned departments and agencies that no additional implementing legislation is needed with regard to ocean dumping of radioactive waste. Under U.S. law, 33 U.S.C. § 1412(a), dumping

of high-level radioactive waste is absolutely prohibited. With regard to low-level radioactive waste, while U.S. law establishes a permitting process, no applications for such permits have been received and no permits have been granted. In fact, the United States has not ocean dumped any low-level radioactive waste since 1970. U.S. law 33 U.S.C. §1414, requires that any permit for the ocean dumping of low-level radioactive waste be issued only by the Administrator of the Environmental Protection Agency, after certain environmental safety and procedural requirements have been met, and approval by a joint resolution of Congress.

The Parties also agree to prohibit the disposal into the seabed and subsoil of radioactive wastes or other radioactive matter, without prejudice to the issue of whether such disposal is "dumping." These prohibitions also apply to the continental shelves of Parties, defined in accordance with international law, which extend beyond the Convention area.

Article 11 provides an obligation to take all appropriate measures to prevent, reduce and control pollution in the Convention area resulting from the storage of toxic and hazardous material. It also obligates Parties to prohibit the storage of radioactive wastes or other radioactive matter in the Convention area. The United States agreed to this prohibition on the understanding (confirmed in the Report of the High Level Conference) that it does not apply to vessels or aircraft navigating the Convention area, in port, or to storage on dry land.

Article 12 obligates Parties to take all appropriate measures to prevent, reduce, and control pollution in the Convention area which might result from the testing of nuclear devices.

Article 13 requires Parties to take all appropriate measures to prevent, reduce and control environmental damage, particularly erosion, in the Convention area caused by engineering, mining activities, sand removal, land reclamation, and dredging.

Article 14 requires Parties to take appropriate measures to protect and preserve rare or fragile ecosystems and depleted, threatened or endangered flora and fauna in the Convention area. Parties are required, as appropriate, to establish protected areas but such areas must not affect the rights (such as navigation and overflight) of other Parites or third states under international law.

Article 15 requires Parties to cooperate in dealing with pollution emergencies and to develop individual and joint contingency plans for responding to such incidents. It also requires Parties to notify countries or territories likely to be affected by such pollution incidents.

Article 16 obligates Parties to develop technical guidelines and legislation for their major development projects which may affect the marine environment and to assess the effects of such projects in order to minimize harmful impacts.

Articles 17 and 18 obligate the Parties to cooperate either directly or through global, regional and subregional organizations in scientific research related to the purposes of the Convention, to develop research and monitoring programs relating to the Convention area, and to cooperate in the provision of technical and other assistance to other Parties in fields relating to pollution and environmental management.

Article 19 obligates Parties to inform the Organization (i.e., the South Pacific Commission) of measures taken to implement the Convention and its Protocols.

Article 20 provides an obligation to cooperate in the formulation and adoption of rules and procedures regarding liability and compensation for pollution damage.

Articles 21 through 25 provide, *inter alia*, for the duties of the secretariat (the Organization) for meetings of the Contracting Parties at two year intervals, for the adoption of additional protocols, for amendment of the Convention and its Protocols, and for rules and procedures regarding annexes to the Convention and its Protocols. The financial rules and budget of the Organization must be adopted by consensus.

Article 26 describes procedures for peaceful settlement of disputes and provides for submission to arbitration upon agreement of the Parties.

Article 27 establishes a requirement that a state may become a Party to the Convention only if it becomes a Party to one or more Protocols at the same time and vice versa. Adoption of amendments and other decisions regarding a Protocol may be taken only by Parties to it.

Articles 28 through 32 contain clauses relating to signature, ratification, acceptance or approval, accession, entry into force, and denunciation of the Convention.

Article 33 describes the responsibility of the Depositary.

The Annex on Arbitration establishes procedures for the settlement of disputes pursuant to Article 26 of the Convention, including the establishment of a tribunal, allocation of costs of arbitration, and issuance of an award.

The SPREP Convention does not apply to military ships and aircraft. Article 4 states that the Convention and its Protocols shall be construed in accordance with international law. Customary international law recognizes the sovereign immunity of such ships and aircraft. However, since the Convention is not explicit in this regard, I recommend that the United States include the following understanding at the time of deposit of its instrument of ratification:

> It is the understanding of the United States that as the Convention does not apply to any warship, naval auxiliary, or other vessels or aircraft owned or operated by a state and used, for the time being, only on government non-commercial service and therefore entitled to sovereign immunity under international law, each state shall ensure, by the adoption of appropriate measures not impairing operations or operational capabilities of such vessels or aircraft owned or operated by it, that such vessels or aircraft act in a manner consistent, so far as is reasonable and practicable, with this Convention.

The Protocol for the Prevention of Pollution of the South Pacific Region by Dumping, with Annexes, regulates within the Convention area the deliberate disposal at sea ("dumping") of wastes and other matter. It conforms very closely to the London Dumping Convention. Annex I lists those substances which may not be dumped

because of their potential to harm the marine environment, such as organohalogens, mercury, cadmium, oil, and persistent plastics, with the addition of organophosphorous compounds. No additional implementing legislation is needed with respect to organophosphorous compounds. These compounds include chemical warfare agents, insecticides, and other materials. Under U.S. law, 33 U.S.C. § 1412(a), no dumping permits may be issued for chemical warfare agents. With respect to industrial waste—the category into which most organophosphorus compounds would fall—U.S. law prohibits ocean dumping by December 31, 1991 and effectively prohibits dumping in the interim, 33 U.S.C. § 1414b(a). Annex II identifies wastes which may be dumped so long as a prior special permit has been obtained, to ensure that special care is taken with regard to such factors as site selection, monitoring, and disposal methods. Annex III contains environmental protection criteria for the issuance of a general dumping permit for the dumping of all wastes and other matter not listed in Annexes I and II.

The major provisions of the Protocol on Dumping are the following:

Articles 1 and 2 identify "Convention" as the SPREP Convention and "Protocol Area" as the SPREP Convention area. (Convention definitions of "dumping" and "pollution" also apply to the Protocols.)

Article 3 contains an obligation to control pollution by dumping, and prohibits dumping within the territorial sea and the exclusive economic zone or onto the continental shelf of a Party without that Party's approval.

Articles 4, 5, 6, and 7 establish obligations with respect to prohibited substances, special permits, general permits, and factors governing the issue of permits.

Article 8 establishes criteria in Annex IV for the allocation of substances to Annexes I (substances which may not be dumped) and II (substances which may be dumped with a special permit).

Articles 9, 10, 11, and 12 parallel the provisions of the 1972 London Dumping Convention with respect to force majeure, emergencies, issuance of permits, and implementation and enforcement.

Article 13 acknowledges the right of each Party to adopt other measures to prevent dumping, in accordance with international law.

Articles 14, 15, and 16 provide for reporting of dumping incidents, institutional arrangements, and meetings of the Parties.

Article 17 states that the provisions of the Convention relating to any protocol shall apply with respect to this Protocol.

By enhancing environmental protection in the region, the Convention and Dumping Protocol will directly benefit the U.S. territories in the area. Ratification will demonstrate our continued commitment to the environment and will further other United States political, economic and strategic interests in the South Pacific region. An Environmental Assessment will be forwarded separately to the Senate for its information.

During the negotiation of the Convention, the Department of State consulted with other departments and agencies of the Federal Government, as well as with American Samoa, Guam and the Northern Mariana Islands, the Congress and affected private sector

groups. All concerned departments and agencies of the Executive Branch support U.S. ratification of this Convention and the Dumping Protocol.

The Convention and is Protocols on dumping and pollution emergencies entered into force on August 22, 1990. Ten countries have ratified or acceded to the Convention. These are: France, Australia, New Zealand, Papua New Guinea, Solomon Islands, Fiji, the Marshall Islands, the Federated States of Micronesia, Western Samoa, and the Cook Islands. Expeditious U.S. ratification of the Convention and Protocol would demonstrate not only our commitment to the protection of the marine environment of the South Pacific but our continuing political commitment to the region as well. It would also allow the United States to participate fully at the first meeting of Parties, which will likely establish the financial and institutional arrangements for implementing the Convention.

I recommend, therefore, that the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region with Annex and the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping, with Annexes, be transmitted to the Senate as soon as possible for advice and consent to ratification.

Respectfully submitted,

LAWRENCE S. EAGLEBURGER.

UNITED NATIONS ENVIRONMENT PROGRAMME

ECONOMIC & SOCIAL COMMISSION FOR ASIA AND THE PACIFIC

SOUTH PACIFIC COMMISSION

SOUTH PACIFIC BUREAU FOR ECONOMIC CO-OPERATION

South Pacific Regional Environment Programme

PROTOCOL CONCERNING CO-OPERATION IN COMBATING POLLUTION EMERGENCIES IN THE SOUTH PACIFIC REGION

It is hereby certified that the attached text in English of the Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific adopted at Noumea, New Caledonia, on 24 November 1986, is a true and correct copy thereof.

Henry F Naisali
Director
South Pacific Bureau for Economic Co-operation

PROTOCOL CONCERNING CO-OPERATION IN COMBATING POLLUTION EMERGENCIES IN THE SOUTH PACIFIC REGION

THE PARTIES TO THIS PROTOCOL,

BEING PARTIES to the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region adopted in Noumea, New Caledonia on the twenty-fourth day of November in the year one thousand nine hundred and eighty-six;

CONSCIOUS that the exploration, development and use of offshore and near shore minerals and the use of hazardous substances, as well as related vessel traffic, pose the threat of significant pollution emergencies in the South Pacific Region;

AWARE that the islands of the region are particularly vulnerable to damage resulting from significant pollution due to the sensitivity of their ecosystems and their economic reliance on the continuous utilization of their coastal areas;

RECOGNIZING that in the event of a pollution emergency or threat thereof, prompt and effective action should be taken initially at the national level to organise and co-ordinate prevention, mitigation and cleanup activities;

RECOGNIZING FURTHER the importance of rational preparation and mutual co-operation and assistance in responding effectively to pollution emergencies or the threat thereof;

DETERMINED to avert ecological damage to the marine environment and coastal areas of the South Pacific Region through the adoption of national contingency plans to be co-ordinated with appropriate bilateral and sub-regional contingency plans;

HAVE AGREED as follows:

Article 1

DEFINITIONS

For the purposes of this Protocol:

(a) "Convention" means the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region adopted in Noumea, New Caledonia on twenty-fourth day of November in the year one thousand nine hundred and eighty-six;

(b) "South Pacific Region" means the Convention Area as defined in article 2 of the Convention and adjacent coastal areas;

(c) "related interests" of a Party refer, inter alia, to:

(i) maritime, coastal, port, or estuarine activities;

(ii) fishing activities and the management and conservation of living and non-living marine resources, including coastal ecosystems;

(iii) the cultural value of the area concerned and the exercise of traditional customary rights therein;

(iv) the health of the coastal population;

(v) tourist and recreational activities;

(d) "pollution incident" means a discharge or significant threat of a discharge of oil or other hazardous substance, however caused, resulting in pollution or an imminent threat of pollution to the marine and coastal environment or which adversely affects the related interests of one or more of the Parties and of a magnitude that requires emergency action or other immediate response for the purpose of minimising its effects or eliminating its threat.

Article 2

APPLICATION

This Protocol applies to pollution incidents in the South Pacific Region.

Article 3

GENERAL PROVISIONS

1. The Parties to this Protocol shall, within their respective capabilities, co-operate in taking all necessary measures for the protection of the South Pacific Region from the threat and effects of pollution incidents.

2. The Parties shall, within their respective capabilities, establish and maintain, or ensure the establishment and maintenance of, the means of preventing and combating pollution incidents, and reducing the risk thereof. Such means shall include the enactment, as necessary, of relevant legislation, the preparation of contingency plans, the development or strengthening of the capability to respond to a pollution incident and the designation of a national authority responsible for the implementation of this Protocol.

Article 4

EXCHANGE OF INFORMATION

Each Party shall periodically exchange with other Parties, either directly or through the Organisation, current information relating to the implementation of this Protocol, including the identification of the officials charged with carrying out the activities covered by it, and information on its laws, regulations, institutions and operational procedures relating to the prevention and the means of reducing and combating the harmful effects of pollution incidents.

Article 5

COMMUNICATION OF INFORMATION CONCERNING, AND REPORTING OF, POLLUTION INCIDENTS

1. Each Party shall establish appropriate procedures to ensure that information regarding pollution incidents is reported as rapidly as possible and shall, inter alia:

(a) require appropriate officials of its government to report to it the occurrence of any pollution incident which comes to their attention;

(b) require masters of vessels flying its flag and persons in charge of offshore facilities operating under its jurisdiction to report to it the existence of any pollution incident involving their vessel or facilities;

(c) establish procedures to encourage masters of vessels flying its flag or of its registry to report, to the extent practicable, the existence of any pollution incident involving their vessel to any coastal State in the South Pacific Region which they deem likely to be seriously affected;

(d) request masters of all vessels and pilots of all aircraft operating in the vicinity of its coasts to report to it any pollution incident of which they are aware.

2. In the event of receiving a report regarding a pollution incident, each Party shall promptly inform all other Parties whose interests are likely to be affected by such incident as well as the flag state of any vessel involved in it. Each Party shall also inform the Organisation and, directly or through the Organisation, the competent international organisations. Furthermore, it shall inform, as soon as feasible, such other Parties and organisations of any measures it has itself taken to minimize or reduce pollution or the threat thereof.

Article 6

MUTUAL ASSISTANCE

1. Each Party requiring assistance to deal with a pollution incident may request, either directly or through the Organisation, the assistance of the other Parties. The Party requesting assistance shall specify the type of assistance it requires. The Parties whose assistance is requested under this article shall, within their capabilities, provide this assistance based on an agreement with the requesting Party or Parties and taking into account, in particular in the case of pollution by hazardous substances other than oil, the technological means available to them. If the Parties responding jointly within the framework of this article so request, the Organisation may co-ordinate the activities undertaken as a result.

2. Each Party shall facilitate the movement of technical personnel, equipment and material necessary for responding to a pollution incident, into, out of and through its territory.

Article 7

OPERATIONAL MEASURES

Each Party shall, within its capabilities, take steps including those outlined below in responding to a pollution incident:

(a) make a preliminary assessment of the incident, including the type and extent of existing or likely pollution effects;

(b) promptly communicate information concerning the situation to other Parties and the Organisation pursuant to article 5;

(c) promptly determine its ability to take effective measures to respond to the pollution incident and the assistance that might be required and to communicate any request for such assistance to the Party or Parties concerned or the Organisation in accordance with article 6;

(d) consult, as appropriate, with other affected or concerned Parties or the Organisation in determining the necessary response to a pollution incident;

(e) carry out the necessary measures to prevent, eliminate or control the effects of the pollution incident, including surveillance and monitoring of the situation.

Article 8

SUB-REGIONAL ARRANGEMENTS

1. The Parties should develop and maintain appropriate sub-regional arrangements, bilateral or multilateral, in particular to facilitate the steps provided for in articles 6 and 7 and taking into account the general provisions of this Protocol.

2. The Parties to any arrangements shall notify the other Parties to this Protocol as well as the Organisation of the conclusion of such sub-regional arrangements and the provisions thereof.

Article 9

INSTITUTIONAL ARRANGEMENTS

The Parties designate the Organisation to carry out the following functions:

(a) assisting Parties, upon request, in the communication of reports of pollution incidents in accordance with article 5;

(b) assisting Parties, upon request, in the organisation of a response action to a pollution incident, in accordance with article 6;

(c) assisting Parties, upon request, in the following areas:

(i) the preparation, periodic review, and updating of the contingency plans, referred to in paragraph 2 of article 3, with a view, inter alia, to promoting the compatibility of the plans of the Parties; and

(ii) the identification of training courses and programmes;

(d) assisting the Parties upon request, on a regional or sub-regional basis, in the following areas:

(i) the co-ordination of emergency response activities; and

(ii) the provision of a forum for discussions concerning emergency response and other related topics;

(e) establishing and maintaining liaison with:

(i) appropriate regional and international organisations; and

(ii) appropriate private organisations, including producers and transporters of substances which could give rise to a pollution incident in the South Pacific Region and clean-up contractors and co-operatives;

(f) maintaining an appropriate current inventory of available emergency reponse equipment;

(g) disseminating information related to the prevention and control of pollution incidents and the removal of pollutants resulting therefrom;

(h) identifying or maintaining emergency response communications systems;

(i) encouraging research by the Parties, as well as by appropriate international and private organisations, on the environmental effects of pollution incidents, the environmental effects of pollution incident control materials and other matters related to pollution incidents;

(j) assisting Parties in the exchange of information pursuant to article 4; and

(k) preparing reports and carrying out other duties assigned to it by the Parties.

Article 10

MEETINGS OF THE PARTIES

1. Ordinary meetings of the Parties to this Protocol shall be held in conjunction with ordinary meetings of the Parties to the Convention, held pursuant to article 22 of the Convention. The Parties to this Protocol may also hold extraordinary meetings as provided for in article 22 of the Convention.

2. It shall be the function of the meetings of the Parties:

(a) to review the operation of this Protocol and to consider special technical arrangements and other measures to improve its effectiveness;

(b) to consider any measures to improve co-operation under this Protocol including, in accordance with article 24 of the Convention, amendments to this Protocol.

Article 11

RELATIONSHIP BETWEEN THIS PROTOCOL AND THE CONVENTION

1. The provisions of the Convention relating to any Protocol shall apply with respect to the present Protocol.

2. The rules of procedure and the financial rules adopted pursuant to article 22 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.